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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,245	02/12/2002	Rakesh Mathur	9D-HR-19761	5065

7590

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EXAMINER

MARSH, STEVEN M

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,245

Applicant(s)

MATHUR ET AL.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: _____

DETAILED ACTION

This is the first office action for U.S. Application 10/074,245 for a Spill Proof Shelf Assembly Method and Structure filed by Rakesh Mathur et al. on February 12, 2002.

Specification

The disclosure is objected to because of the following informalities: Page 1, line 5 reads, "This invention relates to". The sentence is incomplete and it is not clear what Applicant intended the sentence to read. Appropriate correction is required. Page 4, 5th line from the bottom reads, "A gussets 86 extends laterally inward from forward". This portion should be deleted and replaced with - - A gusset 86 extends laterally inward from the forward - -.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 104. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 3, 7, 12, and 14 are objected to because of the following informalities:

Claim 3 reads, "a forward stop tab and a rear tab, said tabs". This portion should be deleted and replaced with - - a forward stop tab and a rear tab, whereby said tabs - -.

Claim 7 reads, "a ledge comprises a clearance portion". The word "comprises" should be deleted and replaced with - - comprising - -. In the 2nd from the last line of claim 12, the word - - a - - should be inserted between "having" and "third". In the 2nd line of claim 14 the word - - and - - should be inserted after the comma. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "gusset" in claims 1-11 is used by the claim to mean "a plate or bracket on the inside of a support that supports a tab," while the accepted meaning is "a plate or bracket for strengthening a structure or framework." In claim 1, Applicant claims that the support members contact at least a portion of the shelf, but it appears from the

figures that the tab (88) would prevent the shelf and the support member (46) from coming into contact. Claim 7 recites the limitation "said forward tab" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12-21 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant claims a shelf comprising a first side with a forward tab laterally extending a first distance from a first side and a rear tab extending a second distance with the second distance being less than the first distance. However, there is no figure that clearly shows this relationship, nor is there a description in the specification as to what purpose this feature serves (Applicant indicates that the tabs extend an equal distance in the next sentence). Furthermore, Applicant describes the rear tab (112) as being parallel to shelf longitudinal axis (106), however the tab appears to be curved. Claims 12-21 have not been treated on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,813,741 to Fish et al. Fish et al. discloses a system for limiting outward movement of a slide-out shelf (46) that has a plurality of side supports (50 and 52) configured to support the shelf. There is also a plurality of support members (54 and 56) configured to rigidly connect the side supports and contact a portion of the shelf thereby blocking forward movement of the shelf (see col. 7, lines 41-43). The shelf has integral forward and rear stop tabs (148 and 144) and the front tabs extend laterally, while the rear tabs extend longitudinally.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,340,209 to Kolbe et al. in view of U.S. Patent 6,457,790 B1 to Liang et al. Kolbe et al. discloses a system for limiting outward movement of a slide-out shelf. There is a plurality of side supports (23 and 24) configured to support the shelf and there are support members configured to rigidly connect the side members. The shelf is configured extends outward in a first direction and retracts inward in a second direction

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opposite the first direction. Kolbe et al. does not disclose a plurality of gussets and gusset tabs configured to contact a portion of the shelf to block further movement.

Liang et al. discloses a shelving system with a side support (10 and 20) that has a rear portion (10) that is wider than the forward portion (20). The side support has an integral gusset that extends laterally inwards from it with a tab (401A or 401b) and the gusset is configured to contact a portion of a shelf to block further movement of the shelf. The shelf has rear and forward stop tabs (32b and 32a) and there is a clearance portion (the groove) for each tab so that the shelf can be extended until the tabs contact the gusset thereby preventing outward movement.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,497,185 B1 to Barrett et al.

U.S. Patent 6,227,636 B1 to Lye et al.

U.S. Patent 6,364,273 B1 to Otema

U.S. Patent 5,273,354 to Herrmann et al.

U.S. Patent 6,422,673 B1 to Bienick

U.S. Patent 6,056,378 to Semon et al.

U.S. Patent 6,364,136 B1 to Weshler et al.

U.S. Patent 5,641,217 to Caruso et al.

U.S. Patent 6,186,456 B1 to Marsh

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The above patents disclose various types of shelving systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.



Steven M. Marsh

January 22, 2003



ANITA KING
PRIMARY EXAMINER